

City of Los Alamitos

Agenda Report Public Hearing

December 14, 2015
Item No: 10A

To: Mayor Richard D. Murphy and Members of the City Council

Via: Bret M. Plumlee, City Manager

From: Steven Mendoza, Development Services Director

Subject: Introduce Ordinance No. 2015-12 – A Zoning Ordinance Amendment (ZOA 15-04) for Administrative Permitting of Small Outside Seating Areas for Restaurants

Summary: Consideration of zoning code changes that would allow restaurants to have an simplified process for small (300 square feet or less) outside seating areas.

Recommendations:

1. Open the Public Hearing; and, if appropriate,
2. Determine that the proposed project is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) under the general rule that CEQA does not apply to activities which can be seen with certainty to have no effect on the environment.
3. Introduce, waive reading in full and authorize reading by title only of Ordinance No. 2015-12, and set for second reading; and,
4. City Attorney Reisman read the title of Ordinance No. 2015-12, entitled, "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING ZONING ORDINANCE AMENDMENT (ZOA) 15-04 AMENDING SECTIONS 17.76.020, 17.10.020 - TABLE 2-04 AND 17.40.020 OF, AND ADDING SECTION 17.38.190 AND CHAPTER 17.41 TO, THE LOS ALAMITOS MUNICIPAL CODE RELATING TO OUTSIDE SEATING AREAS FOR RESTAURANTS AND ADMINISTRATIVE USE PERMITS (CITYWIDE) (CITY INITIATED)."

Background

Creating an environment where shoppers and diners feel safe and comfortable outdoors is one way to provide shopping interest and a social life to a neighborhood. Outdoor dining areas are a great way to initiate this type of environment. Outdoor seating areas along sidewalks are recognized to be part of a “complete street” which means that pedestrians, private businesses, and all modes of transportation can share the public right-of-way. While the City’s code does not currently encourage outdoor dining, the newly adopted General Plan recognized the importance of such dining and Land Use Action 1.11 provided: “[a]mend the zoning ordinance to incentivize and encourage outdoor dining.”

In its November 18th meeting, the Planning Commission approved a Resolution of recommendation to the City Council to approve an Ordinance that would allow small outdoor dining areas by an administrative permit of approval.

Discussion

In the October 28th Planning Commission meeting, Staff was given direction to essentially follow the City of Murrieta’s “Outdoor Dining & Seating Information and Guidelines” to draft new code amendments for the City of Los Alamitos. Staff returned to the Commission with a draft Ordinance based on those guidelines, which was then edited by the Commissioners. The Ordinance before you tonight provides standards for the location and appearance of outdoor dining and/or seating areas in the City of Los Alamitos. The intent is to maintain a quality and consistent appearance of outdoor seating areas in keeping with existing Municipal Code standards.

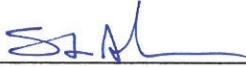
This code section is intended to save time and expense by pre-establishing standards that must be followed for all outdoor dining set-ups. Under the Ordinance, small outdoor seating areas, defined as 300 total square feet or less, will only require an Administrative Use Permit which will be issued by the Director of Development Services, even if alcohol is to be served (assuming there is already a CUP that has been issued for alcohol service indoors). As drafted, the permit will have to be renewed on an annual basis. Large outdoor seating areas, i.e., anything over 300 total square feet, will require a CUP.

In addition to establishing standards for outdoor seating, the ordinance also adopts a new Chapter to the Los Alamitos Municipal Code relating to Administrative Use Permits to be issued by the Development Services Director. Note that the Planning Commission recommends that the fee for this administrative approval be similar in cost to a Special Event Permit, and an annual renewal fee of \$25.00. The fee will be established at a future City Council meeting.

Fiscal Impact

None.

Submitted By:



Steven A. Mendoza
Development Services Director

Approved By:



Bret M. Plumlee
City Manager

- Attachments:*
1. *Unsigned but Approved Resolution of Recommendation No. PC 15-18*
 2. *Ordinance No. 2015-12*
 3. *Unapproved Minutes from Planning Commission*

RESOLUTION NO. PC 15-18

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING ORDINANCE AMENDMENT (ZOA) 15-04 AMENDING SECTIONS 17.76.020, 17.10.020 - TABLE 2-04 AND 17.40.020 OF, AND ADDING SECTION 17.38.190 AND CHAPTER 17.41 TO, THE LOS ALAMITOS MUNICIPAL CODE RELATING TO OUTSIDE SEATING AREAS FOR RESTAURANTS AND ADMINISTRATIVE USE PERMITS (CITY INITIATED)

WHEREAS, the 2015-2035 Los Alamitos General Plan was approved by the City Council on March 23, 2015; and,

WHEREAS, the General Plan notes the following, concerning outdoor dining, in Land Use Action 1.11: "Outdoor dining. Amend the zoning ordinance to incentivize and encourage outdoor dining"; and,

WHEREAS, State law requires that there be consistency between the City's zoning and the General Plan; and,

WHEREAS, the Planning Commission would like to reevaluate Chapter 17 of the Los Alamitos Municipal Code as it relates to the land use known as "Restaurants, with Outside Seating"; and,

WHEREAS, the Planning Commission adopted a Resolution of Intention for this item on September 23, 2015; and,

WHEREAS, the Planning Commission opened a duly noticed Public Hearing concerning this Amendment on October 28, 2015 at which time it directed Staff to come up with an administrative type of permit for small outdoor seating areas; and,

WHEREAS, the Planning Commission continued the hearing to November 18, 2015; and,

WHEREAS, the Planning Commission considered all applicable Staff reports and all public testimony and evidence presented at the Public Hearing.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission hereby recommends that the City Council adopt Ordinance No. TBD (ZOA 15-04), attached hereto.

SECTION 2. The Planning Commission hereby recommends that the City Council adopt a \$75 fee for a small outdoor dining administrative permit fee and a \$25 renewal fee.

SECTION 3. In making this recommendation, the Planning Commission makes the following findings:

1. The proposed amendments ensure and maintain consistency with the General Plan and the Zoning Code. Land Use Action 1.11 of the newly adopted General Plan states, "Outdoor dining. Amend the zoning ordinance to incentivize and encourage outdoor dining".

2. One way in which to encourage outdoor dining is to provide definitive standards and to make the process easy for small outdoor dining areas.

3. The proposed amendments will not adversely affect the public convenience, health, interest, safety, or welfare of the City and it is good planning practice, as well as a legal necessity, to create consistency between the General Plan and zoning. Further, the proposed amendments better the environment by creating desirable outdoor spaces.

4. The proposed amendments are internally consistent with other applicable provisions of this Zoning Code and do not provide any conflicts with any other provision of the Los Alamitos Municipal Code.

5. The proposed amendments have been reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA) and the City's environmental review procedures in that the proposed amendments are exempt from California Environmental Quality Act review per CEQA Guidelines Section 15305 as a minor alteration in land use limitations.

PASSED, APPROVED, AND ADOPTED this 18th day of November, 2015.

John Riley, Chair

ATTEST:

Steven Mendoza, Secretary

APPROVED AS TO FORM:

Lisa Kranitz
Assistant City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LOS ALAMITOS)

I, Steven Mendoza, Planning Commission Secretary of the City of Los Alamitos, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning Commission held on the 18th day of November, 2015, by the following vote, to wit:

AYES: Riley, Cuiilty, Andrade, DeBolt, Grose, Loe, Sofelkanik

NOES: None

ABSENT: None

ABSTAIN: None

Steven Mendoza, Secretary

ORDINANCE NO. 2015-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, APPROVING ZONING ORDINANCE AMENDMENT (ZOA) 15-04 AMENDING SECTIONS 17.76.020, 17.10.020 - TABLE 2-04 AND 17.40.020 OF, AND ADDING SECTION 17.38.190 AND CHAPTER 17.41 TO, THE LOS ALAMITOS MUNICIPAL CODE RELATING TO OUTSIDE SEATING AREAS FOR RESTAURANTS AND ADMINISTRATIVE USE PERMITS (CITYWIDE) (CITY INITIATED).

WHEREAS, the 2015-2035 Los Alamitos General Plan was approved by the City Council on March 23, 2015; and,

WHEREAS, Land Use Action 1.11 of the General Plan provides as follows: "Outdoor dining. Amend the zoning ordinance to incentivize and encourage outdoor dining"; and,

WHEREAS, State law requires that there be consistency between the City's zoning and the General Plan; and,

WHEREAS, the Planning Commission held a duly noticed public hearing concerning this Amendment on October 28, 2015 which was continued to the November Planning Commission meeting; and,

WHEREAS, the Planning Commission continued the public hearing concerning this Amendment on November 18, 2015; and,

WHEREAS, at the conclusion of the public hearing, the Planning Commission adopted a resolution recommending that the City Council adopt this Ordinance; and,

WHEREAS, the City Council concurs with the Planning Commission that outdoor dining should be encouraged and that an administrative permit procedure should be adopted in order to provide for uses such as this; and,

WHEREAS, the City Council held a duly noticed Public Hearing concerning this Amendment on December 14, 2015; and,

WHEREAS, after consideration of all applicable Staff reports and all public testimony and evidence presented at the Public Hearings, the City Council does hereby make the following findings for a Zoning Ordinance Amendment to modify Los Alamitos Municipal Code Section 17.10.020, Table 2-04, and adding Section 17.38.190 "*Restaurants with outside seating area*," as required by Los Alamitos Municipal Code Section 17.70.050:

1. The proposed amendments ensure and maintain consistency between the General Plan and the Zoning Code as these amendments implement Land Use Action 1.11 which provides, "Outdoor dining. Amend the zoning ordinance to incentivize and encourage outdoor dining";

2. The proposed amendments are internally consistent with other applicable provisions of this Zoning Code and do not provide any conflicts with any other provision of the Los Alamitos Municipal Code.

3. The proposed amendments have been reviewed in compliance with the provisions of the California Environmental Quality Act (CEQA) and the City's environmental review procedures in that the proposed amendments are exempt from California Environmental Quality Act review per Section 15035 of the CEQA Guidelines, minor alteration in land use limitations in areas with an average slope of less than 20%. The changes do not result in a change in allowable land uses or density.

4. The Ordinance will not negatively impact the public convenience, health, safety or welfare. Instead, the Ordinance will positively improve the above by creating a better outdoor environment that better connects the community.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The City Council of the City of Los Alamitos, California finds that the above recitals are true and correct and incorporates them by reference herein.

SECTION 2. The following definition shall be amended in Section 17.76.020 of the Los Alamitos Municipal Code to read as follows:

"Restaurant, with outside seating area" means an area used as a seating area with tables and chairs for the contiguous restaurant. This seating may be in addition to the indoor seating or it may be the only seating available for the restaurant.

1. "Restaurants, with small outside seating areas," -- Outdoor restaurant seating that has a footprint occupying a total of 300 square feet or less in area.
2. "Restaurants, with large outside seating areas," -- Outdoor restaurant seating that has a footprint occupying more than a total of 300 square feet.

SECTION 3. Table 2-04 of Section 17.10.020 of the Los Alamitos Municipal Code is hereby amended by adding the following Land Use to the Table:

LAND USE	PERMIT REQUIRED BY ZONING DISTRICT			Specific Use
	C-O	C-G	P-M	Regulations

EATING AND DRINKING

Bars/nightclubs	CUP	CUP	CUP	
Employee's cafeteria/coffee shop	—	—	P	
Restaurants, with drive-through facilities	CUP	CUP	CUP	
Restaurants, full service	P	P	CUP ⁽¹³⁾	
Restaurants, take-out	P	P	CUP	
<u>Restaurants, with large outside seating areas</u>	<u>CUP</u>	<u>CUP</u>	<u>---</u>	<u>17.38.190, Chap. 17.42</u>
<u>Restaurants with small outside seating areas</u>	<u>AUP</u>	<u>AUP</u>	<u>---</u>	<u>17.38.190, Chap. 17.41</u>

SECTION 4. A new section 17.38.190 is hereby added to the Los Alamitos Municipal Code to read as follows:

17.38.190 Restaurants, with outside seating areas.

The following shall apply to the location and appearance of all outdoor seating areas for restaurants in the City of Los Alamitos.

- A. Restaurants with outside seating. The City encourages the use of outdoor dining and seating areas, provided that business operators are mindful of two important considerations: (1) the safety and flow of pedestrian traffic; and (2) the visual appearance of the outdoor dining and/or seating areas. The standards set forth in this section are intended to ensure that outdoor /seating is done in a way that is both safe for pedestrians and appropriate for the surroundings.
- B. Application Process. Outdoor seating may be allowed on private property as an accessory use associated with a legally approved eating and/or drinking business upon approval of a permit application with the fee established by resolution of the City Council as set forth below.
 1. Approving authority:
 - a. Small outside seating areas – small outside seating areas that will not serve alcohol in the outside seating areas shall require an administrative use permit which shall be acted upon by the Development Services Director in accordance with Chapter 17.41. If an applicant wishes to deviate from any of the requirements set forth in this section, a CUP shall be required, regardless of size.

- b. Large outside seating areas – large outside seating areas shall require a conditional use permit which shall be acted upon by the Planning Commission in accordance with Chapter 17.42.

2. Submittal requirements

- a. Floor Plan: A diagram showing the layout of the indoor business space, the proposed outdoor seating area with appropriate setbacks indicated.
 - b. Furniture and Fixtures. The submittal must identify the style, color and materials of all fixtures that will be placed in the outdoor seating area, including but not limited to tables, chairs, umbrellas, planters, barriers.
3. Hold Harmless Agreement: For outdoor seating areas immediately adjacent to the public right-of-way, a Hold Harmless Agreement in a form approved by the City Attorney, releasing the City from any liability related to the outdoor seating area.
 4. CUP Submittal Requirements: For outdoor seating areas requiring CUP approval, all Conditional Use Permit submittal requirements shall also apply in addition to the requirements set forth in this section.

C. Setbacks for outside seating area.

1. From Property Lines or Parking Lots. A minimum unobstructed setback of three (3) feet from property lines or parking lots, including cars overhanging the curb.
2. Residential Uses. A minimum setback of two hundred (200) feet from residential uses (except approved mixed-use projects).
3. From Other Businesses. The minimum setback necessary to maintain the visibility of neighboring businesses to pedestrians and motorists.
4. Pedestrian Space. A minimum of four (4) feet of totally unobstructed walkway space shall be maintained around the outdoor seating area, and outdoor seating areas shall not disrupt disabled access.
5. Perimeter Enclosure. Adequate space to ensure handicapped accessibility and to permit the movement of patrons and wait staff within the enclosure.
6. Potential Impacts. Outdoor seating should consider the location of sensitive land uses and proper measures.

- D. Dining Barriers. Barriers are only required if alcohol will be served in the outdoor seating area, otherwise they are optional.

1. Serving Alcohol. All areas where alcoholic beverages are served outside must comply with the standards established by the State Department of Alcoholic Beverage Control. Any perimeter fence and/or landscaped planter(s) shall be designed to clearly suggest that alcohol is not allowed outside the seating area.
2. Design & Appearance. Any barrier must be freestanding, without any permanent or temporary attachments to buildings, sidewalks or other infrastructure. The physical design of the fence, barrier and/or landscaped planter(s) shall be compatible with the design of the building. Seating area barriers (fences, gates, ropes, etc.) shall be visually appealing, and help to separate the seating area from the sidewalk. All barrier material must be maintained in good visual appearance, without visible fading, dents, tears, rust, corrosion, or chipped or peeling paint. A variety of styles and designs are permissible for outdoor dining/seating area barriers, including the following:
 - a. Sectional Fencing. Sectional fencing is generally defined as rigid fence segments that can be placed together to create a unified fencing appearance. This type of fencing is portable, but cannot be easily shifted by patrons or pedestrians, as can less rigid forms of enclosures. Sectional fencing must be of metal (aluminum, steel, iron, or similar) or of wood construction and must be of a dark color (either painted or stained).
 - b. Rope and Chain Rails. Rope or chain-type barriers are generally defined as enclosures composed of a rope or chain suspended by vertical elements such as stanchions. These types of barriers are permitted if they meet the following guidelines:
 - 1) The rope or chain must have a minimum diameter of 1 inch, in order to remain detectable by the visually impaired.
 - 2) Vertical support posts (stanchions, bollards, etc) must be constructed of wood or metal (aluminum, steel, iron, or similar).
 - 3) A stanchion or other vertical supporting member that has a base must not be a tripping hazard. The stanchion base shall not be domed, and shall not be more than one-half (1/2) of an inch above the sidewalk surface.
 - c. Planters. Planters may be used in addition to or in place of other barrier designs. Planters may be used in situations where no barrier is required in order to provide added visual interest and create a more attractive and welcoming atmosphere. All planters must have living plants contained within them. Dead plants within the planter must be replaced or the planter removed from public view. Artificial plants; empty planters; or planters with only bare dirt, mulch, straw, woodchips or similar material are not permitted. Seasonal, thematic planter displays are encouraged.

- d. Prohibited Materials: Fabric inserts (natural or synthetic) of any size are not permitted to be used as part of a barrier. The use of chain-link, cyclone fencing, chicken wire, or similar material is prohibited. Materials not specifically manufactured for fencing or pedestrian control are prohibited unless they are expressly allowed elsewhere in these guidelines. Materials such as buckets, food containers, tires, tree stumps, vehicle parts, pallets, etc. are not permitted and shall not be used as components of a barrier.
 - e. Barrier Measurements. To ensure their effectiveness as pedestrian control devices and their ability to be detected by persons with vision impairments, barriers must meet the following measurements:
 - 1) Height. The highest point of a barrier (such as a stanchion) must measure at least 36 inches in height, with the exception of planters.
 - 2) Maximum Height of Planters and Plants. Planters may not exceed a height of 36 inches above the level of the sidewalk. Plants may not exceed a height of 96 inches (8 feet) above the level of the sidewalk.
 - 3) Rope/Chain Distance from Ground: In the case of a rope or chain enclosure, the bottom most point on a rope or chain must not exceed 27 inches in height.
 - 4) Maximum Distance from Ground. All barriers must be detectable to visually impaired pedestrians who employ a cane for guidance. Therefore, the bottom of barriers must be no greater than 27 inches above the sidewalk surface.
 - f. Open Appearance. Fences or other perimeter enclosures with a height of between 36 inches and 48 inches must be at least 50 percent open (see-through) in order to maintain visibility of street level activity. Any enclosure with a height over 48 inches must be at least 80 percent open.
 - g. Minimum Access Width: Any access opening within the barrier must measure no less than 44 inches in width.
 - h. Location. Access openings should be placed in a location that will not create confusion for visually impaired pedestrians. The seating area shall not be placed on landscaped areas.
- E. Furniture and fixtures. To ensure compatibility with surrounding uses and a high standard of design quality, all physical elements associated with an outdoor seating area shall be compatible with the overall design of the main structure. A wide range of furniture styles, colors and materials are permitted. All furniture and fixtures must be maintained in good visual appearance, without visible fading, dents, tears, rust, corrosion, or chipped or peeling paint. All furniture and fixtures must be maintained

in a clean condition at all times. All furniture and fixtures must be durable and of sufficiently sturdy construction as not to blow over with normal winds. Furniture and fixtures must not be secured to trees, lampposts, street signs, hydrants, or any other public street infrastructure by any means, whether during restaurant operating hours or when the restaurant is closed. To ensure a quality visual appearance, the following standards apply to outdoor dining furniture:

1. Tables and Chairs: Tables and chairs need to be functional, not only for patrons, but also for pedestrians, given the limited space available in some areas. Outdoor dining furniture must also contribute to the overall atmosphere and be complementary in both appearance and quality. Tables may be a dark or earth tone color, or a natural unpainted material (i.e. wood, metal, etc.). Tables shall not be white plastic or any fluorescent or other strikingly bright or vivid color. Upholstered chairs are permitted. Upholstery is not permitted to be of any fluorescent or other strikingly bright or vivid color. All chairs used within a particular establishment's outdoor seating area must match each other by being of visually similar design, construction and color.

2. Umbrellas: Appropriately designed and sized umbrellas are permitted subject to the following conditions:
 - a. Umbrellas must be free of advertisements or product names.

 - b. All parts of any umbrella (including the fabric and supporting ribs) must be contained entirely within the outdoor seating area.

 - c. When extended, the umbrella must measure at least 7 feet above the surface of the outdoor dining area in order to provide adequate circulation space below.

 - d. The 7 foot minimum height includes not only the umbrella frame and panels, but also any decorative borders such as fringes, tassels or other such ornamentation.

 - e. No part of an umbrella may exceed a height of 10 feet above the surface of the outdoor dining area to avoid an undue visual obstruction of other businesses.

 - f. Umbrellas must blend appropriately with the surrounding built environment.

 - g. Umbrella fabric must be one solid color, and is not permitted to be a fluorescent or other strikingly bright or vivid color.

1. Handicapped Accessibility Requirements. If any of the standards listed above are found to be inconsistent with the American's with Disabilities Act (ADA) or California Building Code (CBC) requirements, the ADA and/or CBC standards shall apply.
2. To the extent any requirements of the ABC are more stringent than the standards listed above for restaurants serving alcohol, the ABC requirements shall apply.

SECTION 5. Table 4-1 of Section 17.40.020 is hereby amended by adding the following:

Review Authority

Type of Entitlement or Decision	Chapter	Director (1)	Planning Commission	City Council
<u>Administrative use permits</u>	<u>17.41</u>	<u>Decision</u>	<u>Appeal</u>	<u>Appeal/Call for review</u>

SECTION 6. Chapter 17.41 is hereby added the Los Alamitos Municipal Code to read as follows:

Chapter 17.41 - ADMINISTRATIVE USE PERMITS

17.41.010 - General provisions.

Administrative use permits may be granted for any of the uses or purposes for which such permits are required by the provisions of this code.

17.41.020 - Application.

- A. Filing. An application for an administrative use permit shall be filed with the Community Development Department in compliance with Chapter 17.40 (Applications, Processing, and Fees).
- B. Contents. Unless specified elsewhere in this Code*, the application shall be accompanied by detailed and fully dimensioned site plans, architectural drawings/sketches, elevations, floor plans, landscape plans, and/or any other data/materials identified in the department handout for administrative use permit applications.
- C. Fees. The required application fee shall be set by resolution of the City Council.

* See 17.39.190B.2 relating to small outside seating areas.

17.41.030 - Action by Development Services Director.

- A. The Development Services Director or his designee shall process an application in accordance with the standards set forth herein and may impose reasonable conditions of approval.
- B. Within ten working days from the date an application is deemed complete, the Development Services Director or his designee shall issue a written determination as to the approval, conditional approval or denial of the application. The written determination shall state the findings for decisions.

17.41.040 – Findings for Approval of Administrative Use Permits.

Before an administrative use permit may be granted, the following findings shall be made:

- A. There is compatibility of the particular use on the particular site in relationship to other existing and potential uses within the general area in which the use is proposed to be located.
- B. The proposed use is consistent and compatible with the purpose of the zone in which the site is located.
- C. The proposed location and use and the conditions under which the use would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

17.41.050 – Expiration of Permit

- A. An administrative use permit shall automatically expire one year from the date of approval unless an application for the renewal of the permit is submitted prior to expiration. The City shall give notice of the expiration at least 30 days before the expiration of the permit. The renewal shall be accompanied by a fee established by resolution of the City Council.
- B. The Development Services Director or his designee may designate a longer expiration period in the written determination.

17.41.060 – Appeals

Appeals shall be in accordance with Chapter 17.68 of this Code.

SECTION 7. The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of the adoption and

shall post a Certified copy of this Ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

SECTION 8. This Ordinance shall take effect thirty days after approval as provided in Government Code Section 36937.

SECTION 9. Staff is hereby directed to file a Notice of Exemption with the County Clerk's office.

_____ PASSED, APPROVED AND ADOPTED THIS ____ DAY OF _____, 2016.

Richard D. Murphy, Mayor

ATTEST:

Windmera Quintanar, City Clerk, CMC

APPROVED AS TO FORM:

Cary Reisman, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss.
CITY OF LOS ALAMITOS)

I, Windmera Quintanar, City Clerk of the City of Los Alamitos, do hereby certify that the foregoing Ordinance No. 2015-TBD was duly introduced and placed upon its first reading at a regular meeting of the City Council on the 14th day of December, 2015, and that thereafter, said Ordinance was duly adopted and passed at a regular meeting of the City Council on the ____ day of _____, 2016, by the following vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Windmera Quintanar, City Clerk, CMC

Commissioner DeBolt indicated that “delivery” is the one that he has a concern about in trying to reconcile a prohibition against delivery with the Compassionate Care Act enacted in the State. He felt that the City needs to get the framework in place so that we have the ability to do that. If we can wade through everything and he is under the opinion that this is pretty much something that we need to do to get us in the position to really get into a lengthy discussion if we want to change it.

Ms. Kranitz explained that the law doesn't say that if we allow it now, that on March 1, 2016 then we get to ban it but it is clear the other way, that if you ban it now, you can later come back and make it looser and provide an explanation such as delivery should be allowed at this point.”

The Commission discussed the benefits of home delivery and a few of the Commissioners thought there were benefits of home delivery still being legal. Although the discussion centered about the positives and negatives of this topic, the Commission thought it best to be more restrictive out the gate and, if necessary, consider loosening it up at a later time.

Following a long discussion, the Commission decided to change the title of the Resolution as follows:

“A Resolution...all commercial medical CANNABIS ACTIVITES in...”.

The Commission also changed #1 in the Resolution to read:

1. *The proposed... City is consistent with the General Plan.*

Motion/Second: Grose/DeBolt

Unanimously Carried: The Planning Commission approved (with the above changes) the adoption of Resolution No. 15-19 entitled, “A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING ORDINANCE AMENDMENT (ZOA) 15-07 TO ADD CHAPTER 17.39 TO THE LOS ALAMITOS MUNICIPAL CODE PROHIBITING ALL COMMERCIAL MEDICAL MARIJUANA USES IN THE CITY AND PROHIBITING CULTIVATION FOR MEDICAL USE BY A QUALIFIED PATIENT OR PRIMARY CAREGIVER AND AMENDING TABLES 2-02, 2-04, AND 2-06 TO REFLECT THE SAME, AND DIRECTING A NOTICE OF EXEMPTION BE FILED FOR A CATEGORICAL EXEMPTION FROM CEQA (CITYWIDE) (CITY INITIATED).

B. Zoning Ordinance Amendment No. 15-04

Administrative Permitting of Restaurants with Outside Seating Areas

A continued hearing to consider zoning code changes that will allow restaurant outside seating on private sidewalks as an administratively permitted use. The draft ordinance is brought back to the Planning

Commission for recommendation to the City Council (Citywide) (City initiated.)

Associate Planner Tom Oliver summarized the Staff report, referring to the information contained therein, and indicated he's prepared to answer questions from the Planning Commission.

Chair Riley opened the Public Hearing.

There being no speakers, Chair Riley closed the item for public comment and brought it back to the Commission for their comments and action.

Commissioner Sofelkanik pointed out that right now we have 300 square feet as a bench mark for small outside seating areas being able to have the administrative approval to operate but wondered if we need to have some language that states that it should be a TOTAL OF 300 square feet.

Mr. Mendoza thought perhaps it would be useful to have the word "Total" added if the Commission agrees.

Commissioner DeBolt indicated he felt that there were quite a few burdens under the Submittal Requirements (Ordinance, Section 4. B.2.a (Page 4). He felt that instead of a formal plan being submitted by the applicant, a diagram would work just as well and wouldn't cost the applicant as much. He felt that a list of requirements for submittal would be helpful for an applicant. To this end, we should replace the word "PLAN" with "DIAGRAM".

Then under "Furniture and Fixtures", Page 4, Commissioner DeBolt felt that identifying the style, color and materials of furniture and fixtures is acceptable; delete the word "EXACT" style.

After Commissioner DeBolt voiced his concerns regarding dining barriers (Page 5), the wording was changed as follows:

D. Dining Barriers. Barriers are only required if alcohol will be served in the outdoor seating area, otherwise they are optional.

Following a lengthy discussion, there were changes to the following pages/items in addition to the above changes:

Page 8, #4 – Prohibited Sidewalk coverings... Changed to:

- *4. Ground Coverings. The floor of outdoor seating areas shall be uncovered sidewalk material as to provide continuity with the adjacent public sidewalk or private walkway."*

Page 9, #1741.020. B. – Application - Add the words:

- B. *“Content – Unless specified elsewhere in this City...”*.
- Change the title of the Development Services Director wherever his title is mentioned.

Page 10, 17.41.50 – Expiration of Permit, Item B:

- A. An administrative use permit...prior to expiration. *The City shall give notice of the expiration at least 30 days before the expiration of the permit. The renewal shall be accompanied by a fee established by resolution of the City Council.*”

Motion/Second: Grose/Andrade

Unanimously Carried: The Planning Commission approved (with the above changes) the adoption of Resolution No. PC 15-17, entitled, “A RESOLUTION OF INTENTION OF THE PLANNING COMMISSION OF THE CITY OF LOS ALAMITOS, CALIFORNIA, RECOMMENDING THAT THE CITY COUNCIL APPROVE ZONING ORDINANCE AMENDMENT (ZOA) 15-04 TO AMEND SECTIONS 17.76.020 AND 17.10.020 - TABLE 2-04, AND ADDING SECTION 17.38.190 OF THE LOS ALAMITOS MUNICIPAL CODE RELATING TO OUTSIDE SEATING AREAS FOR RESTAURANTS (CITY INITIATED).”

Unapproved Minutes